

**THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE:**

**JOHN F. KELLY, JR.**

**KIM M. KELLY**

**Debtors**

:

**BK. No. 13-19976-amc**

:

**Chapter No. 13**

:

**U.S. BANK NATIONAL ASSOCIATION, AS  
TRUSTEE FOR CITIGROUP MORTGAGE  
LOAN TRUST INC. ASSET-BACKED PASS-  
THROUGH CERTIFICATES SERIES 2007-  
AMC2**

:

**11 U.S.C. §362**

:

**Movant**

:

**v.**

**JOHN F. KELLY, JR.**

**KIM M. KELLY**

**Respondents**

:

**MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CITIGROUP  
MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH CERTIFICATES  
SERIES 2007-AMC2 FOR RELIEF FROM AUTOMATIC STAY UNDER §362 PURSUANT  
TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtors JOHN F. KELLY, JR. and KIM M. KELLY A/K/A KIM MARIE KELLY.

1. Movant is **U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR  
CITIGROUP MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH  
CERTIFICATES SERIES 2007-AMC2**.

2. Debtors, JOHN F. KELLY, JR. and KIM M. KELLY A/K/A KIM MARIE KELLY are the owners of the premises located at **7556 VALLEY AVENUE, PHILADELPHIA, PA  
19128**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtors' failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to proceed with foreclosure proceedings on the mortgage because of Debtors' failure to make the monthly payment required hereunder.

6. The foreclosure proceedings to be stayed by the filing of the instant Chapter 13

7. As of November 10, 2017, Debtors have failed to tender post-petition mortgage payments for the months of September 2017 through November 2017. The monthly payment amount for the month of September 2017 is \$1,614.74, payment amount for the months of October 2017 through November 2017 is \$1,662.09, less suspense in the amount of \$521.46, for a total amount due of \$4,417.46. The next payment is due on or before December 1, 2017 in the amount of \$1,662.09.

8. **Movant, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CITIGROUP MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-AMC2**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. Movant, it's successors and assignees posits that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees should be allowed to immediately enforce and implement the Order granting relief from the automatic stay.

12. OCWEN LOAN SERVICING, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CITIGROUP MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-AMC2 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or

Case 13-19976-amc Doc 56 Filed 11/29/17 Entered 11/29/17 18:59:17 Desc Main Document Page 3 of 4  
recommended, said foreclosure action will be conducted in the name of U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CITIGROUP MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-AMC2 (the noteholder). U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CITIGROUP MORTGAGE LOAN TRUST INC. ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-AMC2 (the noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

**WHEREFORE**, Movant respectfully requests that this Court enter an Order;

- a. modifying the Automatic Stay under Section 362 with respect to **7556 VALLEY AVENUE, PHILADELPHIA, PA 19128** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and
- b. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law; and
- c. holding that due to Debtor's continuing failure to tender post-petition mortgage payments and the resulting and ever increasing lack of adequate protection that said failure presents, sufficient grounds exist for waiver of Rule 4001(a)(3), and that Movant, its successors or assignees, should be allowed to immediately enforce and implement the Order granting relief from the automatic stay; and

d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire

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